

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

THE CLEAN MACHINE, INC., )  
 Petitioner, )  
 )  
 v. )  
 )  
 ILLINOIS ENVIRONMENTAL PROTECTION )  
 AGENCY, )  
 Respondent. )

PCB 17- 52  
 (LUST Appeal – Ninety Day  
 Extension)

**RECEIVED**  
 CLERK'S OFFICE

MAR 01 2017

STATE OF ILLINOIS  
 Pollution Control Board

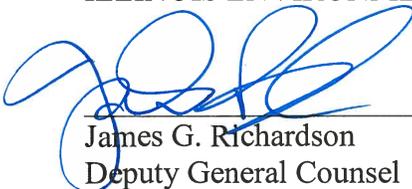
**NOTICE**

Clerk  
 Illinois Pollution Control Board  
 100 West Randolph Street, Suite 11-500  
 Chicago, Illinois 60601-3218

Brendon Wilder  
 Amec Foster Wheeler  
 15933 Clayton Road, Suite 215  
 Ballwin, Missouri 63011

PLEASE TAKE NOTICE that I have today caused to be filed a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

  
 \_\_\_\_\_  
 James G. Richardson  
 Deputy General Counsel

Dated: February 27, 2017  
 1021 North Grand Avenue East  
 P.O. Box 19276  
 Springfield, Illinois 62794-9276  
 217/782-5544

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

THE CLEAN MACHINE, INC., )  
 Petitioner, )  
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 ILLINOIS ENVIRONMENTAL )  
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STATE OF ILLINOIS  
 Pollution Control Board

**REQUEST FOR NINETY DAY EXTENSION**  
**OF APPEAL PERIOD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, James G. Richardson, Deputy General Counsel, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to June 1, 2017, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On January 24, 2017, the Illinois EPA issued a final decision to the Petitioner.
2. On February 17, 2017, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, the Petitioner received the final decision on or about January 27, 2017.

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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James G. Richardson  
Deputy General Counsel

Dated: February 27, 2017

1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
866/273-5488 (TDD)

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limited by Sections 57.8(d), 57.8(e), and 57.8(g) of the Act, as well as 35 Ill. Adm. Code 734.630 and 734.655.

Pursuant to Sections 57.7(b)(2) and (3) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.100, 734.125, and 734.335(a), the Illinois EPA requires submittal of a Corrective Action Plan and budget within 30 days from the date of this letter to:

Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

Please note that the Illinois EPA does not require the submission of a budget if the owner or operator does not intend to seek payment from the Underground Storage Tank Fund.

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

If you have any questions or need further assistance, please contact Mindy Weller at 217/524-4647.

Sincerely,



Michael T. Lowder  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

MTL:MW\890287-2.dot

Attachment: Attachment A

cc: Brendon Wilder, LPG, PMP, PSC Industrial Outsourcing, LP (electronic copy),  
Brendon.wilder@pscnow.com  
BOL File

Attachment A

Re: LPC #1630105065 – St. Clair County  
 Bellville/Clean Machine, Inc.  
 4311 North Belt West  
 Leaking UST Incident No. 890287  
 Leaking UST Technical File

**SECTION 1**

**STAGE 1 & 2 Actual Costs**

As a result of the Illinois EPA's modifications in Section 2 of this Attachment A, the following amounts are approved:

\$16,085.85	Drilling and Monitoring Well Costs
\$2,871.68	Analytical Costs
\$1,213.86	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$13,216.50	Consulting Personnel Costs
\$2000.57	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section 57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

**STAGE 3 Actual Costs**

As a result of the Illinois EPA's modifications in Section 2 of this Attachment A, the following amounts are approved:

\$3,113.46	Drilling and Monitoring Well Costs
\$932.00	Analytical Costs
\$560.50	Remediation and Disposal Costs
\$0.00	UST Removal and Abandonment Costs
\$0.00	Paving, Demolition, and Well Abandonment Costs
\$14,043.38	Consulting Personnel Costs
\$741.16	Consultant's Materials Costs

Handling charges will be determined at the time a billing package is reviewed by the Illinois EPA. The amount of allowable handling charges will be determined in accordance with Section

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57.1(a) of the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.635.

## SECTION 2

### STAGE 1 & 2 Modifications

1. \$266.00 for costs associated with improperly collected, transported, or analyzed laboratory samples. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(q). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs.

The samples collected were collected in a location exhibiting evidence of hydrocarbon impact which the value may not be used for developing a Tier 2 remediation objective. Therefore, the samples were improperly collected and are not appropriate samples for utilization and are ineligible for payment from the Fund.

2. The Lead TCLP soil and TCLP soil waste characterization rate have been reduced to \$17.45 and \$86.15 per analysis. The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

Based upon the above deduction, a total of \$122.80 was deducted from Analytical Costs evaluated from the Subpart H rates of July 1, 2008 through June 30, 2009.

3. The TCLP liquid waste characterization rate has been reduced to \$12.24 per analysis. The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

Based upon the above deduction, a total of \$157.02 was deducted from Analytical Costs evaluated from the Subpart H rates of July 1, 2009 through June 30, 2010.

4. \$1,752.50 for Consulting Personnel Costs, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site

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investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act. In addition, those costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

It is not clear to the Illinois EPA as to the necessity of three technicians to conduct the same task for Stage 1 – Field investigation preparation. Therefore, the costs have been modified to include only the Technician IV costs for Stage 1 – Field investigation preparation tasks.

It is not clear to the Illinois EPA as to the necessity of seven personnel to conduct the same task for Stage 2 – Field borehole drilling and well installation oversight. Therefore, the costs have been modified to include only the Geologist II and the Senior Project Manager costs for Stage 2 – Field borehole drilling and well installation oversight tasks.

It is not clear to the Illinois EPA as to the necessity of three personnel to conduct the same task for Stage 2 – Field aquifer testing, water level measurements, groundwater sampling, and waste disposal for six groundwater monitoring wells.. Therefore, the costs have been modified to include only the Geologist II and the Engineer III costs for Stage 2 – Field borehole aquifer testing, water level measurements, groundwater sampling, and waste disposal tasks.

5. \$82.92 for Consultant's Materials Costs, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act. In addition, those costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

The costs for Stage 2 – Field company truck for P.E. oversight was deducted since the P.E. oversight was deducted from the personnel allowed for oversight tasks. In addition, the costs for Stage 2 – Field mileage for PM to site and deliver samples was deducted since there was not a P.M. on the site according to the personnel costs.

### STAGE 3 Modifications

1. \$4,090.61 for costs for Consulting Personnel Costs, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those

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necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act. In addition, those costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd).

It is not clear to the Illinois EPA as to the necessity for a total of 38.5 hours to complete the 45 Day Report Form. All of the early action information has already been completed and submitted to the Illinois EPA in the correspondences received beginning in 2009 and in the Stage 1 Results/Stage 2/3 Site Investigation Plan(s). Therefore, the Illinois EPA has modified the personnel costs to not include the hours for the 45 Day tasks.

2. \$3,324.10 for costs for Consulting Personnel Costs, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act. In addition, those costs are not reasonable as submitted. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(dd). Further the costs are inconsistent with the associated technical plan. One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are consistent with the associated technical plan. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.510(b).

The entire Stage 3 actual costs budget is not consistent with the previously approved Stage 3 plan/budget in the Illinois EPA letter dated April 5, 2016. Therefore, the Illinois EPA has modified the actual costs to mimic the previous budget for the personnel remediation category, title, hours, rates, and tasks. This modification includes:

- a. Reduction in hours for Senior Admin. Assistant other than 45 Day tasks (7.75 hours) and Senior-Draftsperson/CAD (5 hours);
- b. Deduction for all hours for Project Manager (other than 45-Day tasks);
- c. Additional hours added for Senior Project Manager (22.75 hours) and Senior Account Technician (29.75 hours); and
- d. Geologist II title was changed to Geologist III title for a total of 38.25 hours for the same tasks that were included in the actual costs budget;

### Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4) of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the filing of an appeal, please contact:

John Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph, Suite 11-500  
Chicago, IL 60601  
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276  
217/782-5544

**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on the afternoon of February 27, 2017 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by first class mail of the United States Postal Service upon the persons as follows:

Clerk  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601-3218

Brendon Wilder  
Amec Foster Wheeler  
15933 Clayton Road, Suite 215  
Ballwin, Missouri 63011

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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James G. Richardson  
Deputy General Counsel  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
217/782-9143 (TDD)